

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AMIR S. SHAABAN, :
:
Petitioner, : **ORDER DISMISSING CASE**
-against- :
: 15 Civ. 4249 (AKH)
OSCAR AVILES, in his official capacity as :
Warden of Hudson County Jail, et al., :
:
Respondents. :
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ALVIN K. HELLERSTEIN, U.S.D.J.:

On July 6, 2015, I granted Petitioner's habeas petition, and in so doing ordered the government to provide Petitioner with a prompt individualized bond hearing. *See* ECF No. 6. I reasoned that 8 U.S.C. § 1226(c), under which Petitioner was detained, requires the government to take criminal aliens into immigration detention “immediately” after their release from federal criminal custody, and that Petitioner’s ongoing detention without a bond hearing violated his due process rights. *See id.* at 1-2. In February of 2020, after the government’s intervening appeal, *see* ECF No. 14, the Second Circuit vacated and remanded my order granting habeas, for further consideration in light of new Supreme Court precedent that called my earlier reasoning into question. *See* ECF Nos. 15 and 16 (citing *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018) and *Nielsen v. Preap*, 139 S. Ct. 954 (2019)).

Meanwhile, in August 2015, Petitioner received a bond hearing before an Immigration Judge (“IJ”), at which time the IJ denied bond based on the finding that Petitioner was a flight risk. *See* ECF No. 12-1. Petitioner’s case before the Board of Immigration Appeals (“BIA”) remains pending. *See* A-096-516-615.

Because the record reflects that Petitioner was given the bond hearing he sought and that Petitioner was detained for reasons aside from the Section 1226(c) statutory rationale initially relied upon by the government, this case is dismissed without prejudice to the continued proceedings before the BIA or to any subsequent judicial proceedings to challenge any rulings of the BIA. The Clerk is directed that this case is to remain closed.

SO ORDERED.

Dated: April 28, 2020
New York, New York

_____/s/_____
ALVIN K. HELLERSTEIN
United States District Judge